

**Chapter 2.40****PLANNING COMMISSION****Sections:**

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**Section 2.40.010 Additional Duties of the Planning Commission.**

Pursuant to the provisions of Article VIII of the City Charter, and by ordinance, in addition to the duties of the Planning Commission set forth in Title 19 of this Code, all duties previously given to the Board of Administrative Appeals and Zoning Adjustment are assigned to the Planning Commission. In addition, four members of the Planning Commission, plus three additionally designated persons with disabilities, at least two of whom shall be mobility impaired, shall be designated to serve as the Accessibility Appeals Board. (Ord. 6462 § 2, 1999; Ord. 6037 § 1, 1993; Ord. 4855 § 4 (part), 1980)

**Section 2.40.020 Powers and duties.**

The Planning Commission shall have the following powers and duties:

A. Hear the appeal of any person denied a variance or use permit and the appeals of other matters as set forth below. In such capacity the Commission is not vested with legislative authority and must act within the framework of existing ordinances. The Commission is authorized, upon appeal, to determine the suitability of alternate materials and methods and types of construction which are not specifically required or prohibited by law or ordinance of the City;

B. To make recommendations upon and administer the regulations of Title 19 in accordance with the provisions of Section 19.82.020 (Planning Commission Powers and Duties) of Title 19 of this code;

C. To convene as an Accessibility Appeals Board, which Board shall be comprised of the three persons with disabilities and four other members of the Commission for the following purposes:

1. To consider and ratify, if appropriate, the findings and determinations required to be rendered by the Building Official when the Building Official has granted a total exemption from a specific access requirement, and

2. To conduct hearings on written appeals of decisions of the Building Official regarding accessibility issues, and approve or disapprove interpretations and enforcement actions taken by the Building Official relating to access. (Ord. 6844 § 2, 2006; Ord. 6462 § 3, 1999; Ord. 6037 § 1, 1993; Ord. 4855 § 4 (part), 1980)

**Section 2.40.030 Appeal procedure.**

A. Notice of Appeal. Within the limitations provided for in Section 2.40.020, a person aggrieved by any order, act or determination of the Building Official or Fire Marshal or their subordinates, may appeal therefrom to the Planning Commission, acting as an appeals board. The appeal shall be taken by filing a written notice of appeal within thirty days after the date of making the order or determination or performing the act or discovery by the aggrieved person,

exclusive of holidays, and by paying a fee in an amount established by resolution of the City Council. The notice of appeal must be in writing on a form provided by the Planning Director, and the notice must be filed and the fee, if required, paid at the Planning Department.

The operation of the act, order or determination appealed from is suspended by the filing of the notice of appeal and until the determination of the appeal or termination of proceedings thereunder.

B. Hearing. The Planning Director or the designee of said Planning Director shall fix the time and place of hearing the appeal and shall determine if the nine member Board or the Accessibility Appeals Board or Commission shall hear the matter. The date of hearing shall be not less than five days nor more than sixty days after the date of filing the notice of appeal, and the hearing must not be postponed for more than ten days without good and sufficient cause. The Board or Commission shall give written notice of the time and place of such hearing to the appellant and the officer or head of the department or division whose act, order or determination is appealed from. Witnesses may be sworn and examined and evidence produced by interested parties, who may appear in person or by attorney. The Board or Commission shall keep a record of each appeal and proceedings thereunder. At the conclusion of the hearing, the Board or Commission shall prepare and file its written findings and decision. The affirmative vote of two-thirds of the Board or Commission is necessary to modify or reverse the order, act or determination appealed from. The failure of the Board or Commission to file its findings and decision within five days after termination of the hearing shall deprive the Board or Commission of jurisdiction to proceed and shall result in the automatic confirmation of the order, act or determination appealed from.

C. Appeal to City Council. Any person aggrieved or affected by a decision of the Board or Commission may appeal to the City Council from such decision at any time within ten days after the date upon which the Board or Commission announces its decision or loses jurisdiction. An appeal to the City Council shall be taken by filing a letter of appeal with the Planning Department and by concurrently paying to such Department a fee if required in the amount established by resolution of the City Council. Such letter shall set forth the grounds upon which the appeal is based. Within fifteen days after the receipt of the letter of appeal and the filing fee, the Planning Department shall transmit to the City Council the letter of appeal and the record of the appeal at the Board or Commission, and the Board or Commission's findings and decision. The City Council may affirm, reverse or modify the decision of the Board or Commission. (Ord. 6634 § 1, 2002; Ord. 6462 § 4, 1999; Ord. 6037 § 1, 1993; Ord. 5552 § 1, 1987; Ord. 4855 § 4 (part), 1980)

#### **Section 2.40.040      Variance procedure.**

The Planning Commission shall consider requests for variances in accordance with the procedures set forth in Chapter 19.64 of this code. (Ord. 6462 § 5, 1999; Ord. 6037 § 1, 1993; Ord. 4855 § 4 (part), 1980)

#### **Section 2.40.050      Continuing jurisdiction.**

The Planning Commission shall have and maintain jurisdiction over all previous matters assigned to be heard by the Board of Administrative Appeals and Zoning Adjustment or the Board of Zoning Adjustment. (Ord. 6462 § 6, 1999; Ord. 6037 § 1, 1993; Ord. 4855 § 4 (part), 1980)